

**FY 2018**

**CONGRESSIONAL BUDGET JUSTIFICATION**

**WAGE AND HOUR DIVISION**

This page is intentionally left blank.

# WAGE AND HOUR DIVISION

## TABLE OF CONTENTS

Appropriation Language .....	1
Amounts Available for Obligation.....	2
Summary of Changes .....	3
Summary of Budget Authority and FTE by Activity.....	5
Budget Authority by Object Class .....	6
Authorizing Statutes.....	7
Appropriation History .....	9
Overview .....	10
Organization Chart.....	12
Budget Activities .....	13
Wage and Hour Division .....	13

This page is intentionally left blank.

# WAGE AND HOUR DIVISION

## APPROPRIATION LANGUAGE

### *WAGE AND HOUR DIVISION*

### *SALARIES AND EXPENSES*

*For necessary expenses for the Wage and Hour Division, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, \$230,068,000.*  
Note.—A full-year 2017 appropriation for this account was not enacted at the time the budget was prepared; therefore, the budget assumes this account is operating under the Further Continuing Appropriations Act, 2017 (P.L. 114–254). The amounts included for 2017 reflect the annualized level provided by the continuing resolution.

## WAGE AND HOUR DIVISION

<b>AMOUNTS AVAILABLE FOR OBLIGATION</b>						
(Dollars in Thousands)						
	<b>FY 2016 Enacted</b>		<b>FY 2017 Full Year C.R.</b>		<b>FY 2018 Request</b>	
	<b>FTE</b>	<b>Amount</b>	<b>FTE</b>	<b>Amount</b>	<b>FTE</b>	<b>Amount</b>
<b>A. Appropriation</b>	<b>1,376</b>	<b>\$227,500</b>	<b>1,404</b>	<b>\$227,068</b>	<b>1,393</b>	<b>\$230,068</b>
<i>Subtotal Appropriation</i>	<i>1,376</i>	<i>\$227,500</i>	<i>1,404</i>	<i>\$227,068</i>	<i>1,393</i>	<i>\$230,068</i>
Reimbursements (CMP's)	0	\$2,800	0	\$2,800	0	\$2,800
H-1B L Fraud Fees (Collected)	367	\$58,000	352	\$58,000	352	\$58,000
<i>Subtotal</i>	<i>1,743</i>	<i>\$288,300</i>	<i>1,756</i>	<i>\$287,868</i>	<i>1,745</i>	<i>\$290,868</i>
<b>B. Gross Budget Authority</b>	<b>1,743</b>	<b>\$288,300</b>	<b>1,756</b>	<b>\$287,868</b>	<b>1,745</b>	<b>\$290,868</b>
Reimbursements (CMP's)	0	-\$2,800	0	-\$2,800	0	-\$2,800
H-1B L Fraud Fees (Collected)	-367	-\$58,000	-352	-\$58,000	-352	-\$58,000
<b>C. Budget Authority Before Committee</b>	<b>1,376</b>	<b>\$227,500</b>	<b>1,404</b>	<b>\$227,068</b>	<b>1,393</b>	<b>\$230,068</b>
Reimbursements (CMP's)	0	\$2,800	0	\$2,800	0	\$2,800
H-1B L Fraud Fees Actual	344	\$56,542	352	\$58,000	352	\$58,000
<b>D. Total Budgetary Resources</b>	<b>1,720</b>	<b>\$286,842</b>	<b>1,756</b>	<b>\$287,868</b>	<b>1,745</b>	<b>\$290,868</b>
FTE Lapse and Unobligated Balance Expiring	-17	-\$395	0	\$0	0	\$0
<b>E. Total, Estimated Obligations</b>	<b>1,703</b>	<b>\$286,447</b>	<b>1,756</b>	<b>\$287,868</b>	<b>1,745</b>	<b>\$290,868</b>

# WAGE AND HOUR DIVISION

## SUMMARY OF CHANGES

(Dollars in Thousands)

	FY 2017 Full Year C.R.	FY 2018 Request	Net Change
<b>Budget Authority</b>			
General Funds	\$285,068	\$288,068	+\$3,000
Total	\$285,068	\$288,068	+\$3,000
<b>Full Time Equivalents</b>			
General Funds	1,756	1,745	-11
Total	1,756	1,745	-11

### FY 2018 Change

Explanation of Change	FY 2017 Base		Trust Funds		General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
<b>Increases:</b>								
<b>A. Built-Ins:</b>								
To Provide For:								
Costs of pay adjustments	1,756	\$140,740	0	\$0	0	\$2,105	0	\$2,105
Personnel benefits	0	\$8,833	0	\$0	0	\$0	0	\$0
Employee health benefits	0	\$38,971	0	\$0	0	\$714	0	\$714
Moving allowance	0	\$0	0	\$0	0	\$0	0	\$0
Two days less of Pay	0	\$0	0	\$0	0	\$0	0	\$0
Federal Employees' Compensation Act (FECA)	0	\$0	0	\$0	0	\$0	0	\$0
Benefits for former personnel	0	\$35	0	\$0	0	\$0	0	\$0
Travel and transportation of persons	0	\$4,132	0	\$0	0	\$0	0	\$0
Transportation of things	0	\$9	0	\$0	0	\$0	0	\$0
Rental payments to GSA	0	\$13,825	0	\$0	0	\$0	0	\$0
Rental payments to others	0	\$13	0	\$0	0	\$0	0	\$0
Communications, utilities, and miscellaneous charges	0	\$3,459	0	\$0	0	\$0	0	\$0
Printing and reproduction	0	\$595	0	\$0	0	\$0	0	\$0
Advisory and assistance services	0	\$5,547	0	\$0	0	\$0	0	\$0
Other services from non-Federal sources	0	\$1,529	0	\$0	0	\$0	0	\$0
Working Capital Fund	0	\$48,338	0	\$0	0	\$0	0	\$0
Other Federal sources (DHS Charges)	0	\$580	0	\$0	0	\$0	0	\$0
Other goods and services from Federal sources	0	\$9,434	0	\$0	0	\$0	0	\$0
Research & Development Contracts	0	\$0	0	\$0	0	\$0	0	\$0
Operation and maintenance of facilities	0	\$39	0	\$0	0	\$0	0	\$0
Operation and maintenance of equipment	0	\$5,357	0	\$0	0	\$0	0	\$0
Supplies and materials	0	\$571	0	\$0	0	\$0	0	\$0
Equipment	0	\$1,885	0	\$0	0	\$0	0	\$0

## WAGE AND HOUR DIVISION

FY 2018 Change

Explanation of Change	FY 2017 Base		Trust Funds		General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Grants, subsidies, and contributions	0	\$0	0	\$0	0	\$0	0	\$0
Insurance claims and indemnities	0	\$65	0	\$0	0	\$0	0	\$0
<b>Built-Ins Subtotal</b>	<b>1,756</b>	<b>+\$283,957</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>+\$2,819</b>	<b>0</b>	<b>+\$2,819</b>
<b>B. Programs:</b>								
Compliance Assistance	0	\$3,000	0	\$0	15	\$3,000	15	\$3,000
<b>Programs Subtotal</b>			<b>0</b>	<b>\$0</b>	<b>15</b>	<b>+\$3,000</b>	<b>15</b>	<b>+\$3,000</b>
<b>Total Increase</b>	<b>1,756</b>	<b>+\$283,957</b>	<b>0</b>	<b>\$0</b>	<b>15</b>	<b>+\$5,819</b>	<b>15</b>	<b>+\$5,819</b>
<b>Decreases:</b>								
<b>A. Built-Ins:</b>								
To Provide For:								
Federal Employees' Compensation Act (FECA)	0	\$1,111	0	\$0	0	-\$28	0	-\$28
<b>Built-Ins Subtotal</b>	<b>0</b>	<b>+\$1,111</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>-\$28</b>	<b>0</b>	<b>-\$28</b>
<b>B. Programs:</b>								
FTE Reduction to Absorb Inflationary Costs	-26	\$2,791	0	\$0	-26	-\$2,791	-26	-\$2,791
<b>Programs Subtotal</b>			<b>0</b>	<b>\$0</b>	<b>-26</b>	<b>-\$2,791</b>	<b>-26</b>	<b>-\$2,791</b>
<b>Total Decrease</b>	<b>0</b>	<b>+\$1,111</b>	<b>0</b>	<b>\$0</b>	<b>-26</b>	<b>-\$2,819</b>	<b>-26</b>	<b>-\$2,819</b>
<b>Total Change</b>	<b>1,756</b>	<b>+\$285,068</b>	<b>0</b>	<b>\$0</b>	<b>-11</b>	<b>+\$3,000</b>	<b>-11</b>	<b>+\$3,000</b>



## WAGE AND HOUR DIVISION

<b>SUMMARY BUDGET AUTHORITY AND FTE BY ACTIVITY<sup>1</sup></b>								
(Dollars in Thousands)								
	FY 2016 Enacted		FY 2017 Full Year C.R.		FY 2018 Request		Diff. FY18 Request / FY17 Full Year C.R.	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
<b>Wage and Hour Division</b>	<b>1,359</b>	<b>227,500</b>	<b>1,404</b>	<b>227,068</b>	<b>1,393</b>	<b>230,068</b>	<b>-11</b>	<b>3,000</b>
General Funds	1,359	227,500	1,404	227,068	1,393	230,068	-11	3,000
<b>Wage Hour H-1B</b>	<b>344</b>	<b>58,000</b>	<b>352</b>	<b>58,000</b>	<b>352</b>	<b>58,000</b>	<b>0</b>	<b>0</b>
General Funds	344	58,000	352	58,000	352	58,000	0	0
<b>Total</b>	<b>1,703</b>	<b>285,500</b>	<b>1,756</b>	<b>285,068</b>	<b>1,745</b>	<b>288,068</b>	<b>-11</b>	<b>3,000</b>
<b>General Funds</b>	<b>1,703</b>	<b>285,500</b>	<b>1,756</b>	<b>285,068</b>	<b>1,745</b>	<b>288,068</b>	<b>-11</b>	<b>3,000</b>

NOTE: 2016 reflects actual FTE.

<sup>1</sup> Note: H-1B Fees - This account is not appropriated.

## WAGE AND HOUR DIVISION

<b>BUDGET AUTHORITY BY OBJECT CLASS</b>					
(Dollars in Thousands)					
		<b>FY 2016 Enacted</b>	<b>FY 2017 Full Year C.R.</b>	<b>FY 2018 Request</b>	<b>Diff. FY18 Request / FY17 Full Year C.R.</b>
	Full-Time Equivalent				
	Full-time Permanent	1,703	1,756	1,745	-11
	<b>Total</b>	<b>1,703</b>	<b>1,756</b>	<b>1,745</b>	<b>-11</b>
	Average ES Salary	\$170,538	\$184,269	\$193,482	\$9,213
	Average GM/GS Grade	11	11	11	0
	Average GM/GS Salary	\$66,941	\$68,220	\$69,994	\$1,774
11.1	Full-time permanent	141,190	137,515	140,846	3,331
11.3	Other than full-time permanent	814	720	720	0
11.5	Other personnel compensation	2,217	2,504	2,361	-143
11.8	Special personal services payments	10	1	0	-1
11.9	<b>Total personnel compensation</b>	<b>144,231</b>	<b>140,740</b>	<b>143,927</b>	<b>3,187</b>
12.1	Civilian personnel benefits	48,862	48,915	48,111	-804
13.0	Benefits for former personnel	52	35	35	0
21.0	Travel and transportation of persons	6,307	4,132	4,090	-42
22.0	Transportation of things	2	9	9	0
23.0	Rent, Communications, and Utilities	0	0	0	0
23.1	Rental payments to GSA	13,433	13,825	14,127	302
23.2	Rental payments to others	13	13	18	5
23.3	Communications, utilities, and miscellaneous charges	3,817	3,459	3,780	321
24.0	Printing and reproduction	387	595	602	7
25.1	Advisory and assistance services	4,292	5,547	6,139	592
25.2	Other services from non-Federal sources	7,068	1,529	1,735	206
25.3	Other goods and services from Federal sources 1/	43,928	58,352	57,356	-996
25.4	Operation and maintenance of facilities	0	39	42	3
25.5	Research and development contracts	0	0	0	0
25.7	Operation and maintenance of equipment	11,006	5,357	5,357	0
26.0	Supplies and materials	1,037	571	615	44
31.0	Equipment	1,049	1,885	2,025	140
41.0	Grants, subsidies, and contributions	0	0	0	0
42.0	Insurance claims and indemnities	16	65	100	35
	<b>Total</b>	<b>285,500</b>	<b>285,068</b>	<b>288,068</b>	<b>3,000</b>
	1/Other goods and services from Federal sources				
	Working Capital Fund	31,160	48,338	48,338	0
	DHS Services	1,100	580	580	0
	Services by DOL Agencies	7,323	9,343	9,343	0
	GSA Services	200	83	83	0
	Services by Other Government Departments	4,145	0	1,000	1,000

## WAGE AND HOUR DIVISION

### AUTHORIZING STATUTES

Public Law / Act	Legislation	Statute No. / US Code	Volume No.	Page No.	Expiration Date
PUB. L. 75-718	Fair Labor Standards Act of 1938, as amended.	29 U.S.C. 201-219			N/A
PUB. L. 74-846	Walsh-Healy Public Contracts Act, as amended (1936).	41 U.S.C. 35-45			N/A
PUB. L. 90-321	Consumer Credit Protection Act (Title III – Restriction on Garnishment) (1968).	15 U.S.C. 1671-1677			N/A
PUB. L. 87-581	Contract Work Hours and Safety Standards Act, as amended (1962).	40 U.S.C. 327-330			N/A
PUB. L. 89-286	McNamara-O’Hara Service Contract Act, as amended (1965).	41 U.S.C. 351-357			N/A
PUB. L. 74-403	Davis-Bacon Act, as amended and related acts (1931).	40 U.S.C. , Chapter 31, Subpart IV			N/A
PUB. L. 97-470	Migrant and Seasonal Agricultural Worker Protection Act (1983).	29 U.S.C. 1801-1872			N/A
PUB. L. 99-603	Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986.	8 U.S.C. 1324, 8 U.S.C. 1101(a), 1184(c), 1824, 29 U.S.C. 1802, 1813(a)			N/A
PUB. L. 100-347	Employee Polygraph Protection Act of 1988.	29 U.S.C. 2001 et seq			N/A
PUB. L. 103-3	Family and Medical Leave Act of 1993.	29 U.S.C. 2601, et. Seq.			N/A
PUB. L. 105-277	American Competitiveness and Workforce Improvement Act (ACWIA), Title IV of the Omnibus Consolidated and Emergency Supplemental Appropriation Act (1998).	414(b) and (c)			N/A

## WAGE AND HOUR DIVISION

<b>Public Law / Act</b>	<b>Legislation</b>	<b>Statute No. / US Code</b>	<b>Volume No.</b>	<b>Page No.</b>	<b>Expiration Date</b>
PUB. L. 108-447	L-1 Visa and H-1B Visa Reform Act, Title IV of the Consolidated Appropriations Act, (2005).	401-430			N/A
PUB. L. 89-209	National Foundation for the Arts and Humanities Act, Sections 5(i) and 7(g) (1965).	20 U.S.C. 954 (i) and 956 (g)			N/A

## WAGE AND HOUR DIVISION

<b>APPROPRIATION HISTORY</b>					
(Dollars in Thousands)					
	<b>Budget Estimates to Congress</b>	<b>House Allowance</b>	<b>Senate Allowance</b>	<b>Appropriations</b>	<b>FTE</b>
2008					
Base Appropriation	\$182,365			\$175,658	1,208
2009					
Base Appropriation	\$193,092			\$193,092	1,283
2010					
Base Appropriation	\$227,656			\$227,262	1,466
2011					
Base Appropriation	\$244,240			\$227,491	1,022
2012					
Base Appropriation	\$240,937		\$227,491	\$227,061	1,418
2013					
Base Appropriation	\$237,730			\$215,184	1,420
2014					
Base Appropriation	\$243,254			\$224,330	1,446
2015					
Base Appropriation	\$265,766			\$227,500	1,332
2016					
Base Appropriation	\$277,100	\$215,500	\$210,000	\$227,500	1,376
2017					
Base Appropriation...1/	\$276,599				0
2018					
Base Appropriation	\$230,068				1,393

1/ A full-year 2017 appropriation for this account was not enacted at the time the budget was prepared.

In the FY 2005 through FY 2010 budget estimate to congress, the Wage and Hour amount was included in the former Employment Standards Administration request.

FTE shown only includes FTE funded from the WHD annual appropriation.

# WAGE AND HOUR DIVISION

## OVERVIEW

### **Introduction**

The Wage and Hour Division (WHD) is authorized under 29 U.S.C. 207, *et seq.* to administer and enforce a variety of laws that establish the minimum standards for wages and working conditions in the United States. Collectively, these labor standards cover most private, state, and local government employment. WHD's mission is to "*promote and achieve compliance with labor standards to protect and enhance the welfare of the Nation's workforce.*" WHD is instrumental in promoting access to opportunities— opportunities for employers to compete on a level playing field; opportunities for workers to move into the middle class; and opportunities for workers to balance their family and work obligations.

WHD comprises a nationwide staff of investigators, supervisors, analysts, technicians, and administrative employees who share responsibility for enforcing and administering the minimum wage, overtime, child labor, and break time for nursing mothers provisions of the Fair Labor Standards Act (FLSA); the prevailing wage requirements and wage determination provisions of the Davis-Bacon and Related Acts (DBRA) and the McNamara-O'Hara Service Contract Act (SCA); the wages and working conditions under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA); the job protections of the Family and Medical Leave Act (FMLA); and the Employee Polygraph Protection Act (EPPA). WHD also enforces the field sanitation and temporary labor camp standards in agriculture and certain employment standards and worker protections of the Immigration and Nationality Act (INA). These laws protect over 135 million workers in more than 7.3 million establishments throughout the United States and its territories.

Given the scope of the agency's responsibilities, WHD must make the most of its limited resources by focusing its enforcement and compliance assistance efforts to achieve the greatest impact. The division uses data and evidence to identify areas and industries in which serious violations may be widespread, despite a lack of complaints, and often organizes educational and enforcement initiatives in those areas. WHD complements enforcement with outreach and education to employers. By partnering with industry and employers to produce meaningful compliance assistance, WHD can increase compliance with the laws it enforces.

Employers can anticipate and plan when the agency provides them with resources and information concerning the Nation's wage and workplace standards. Employers and employees benefit when businesses manage costs through innovation and efficiencies rather than by violating the law, undercutting workers and other businesses. By combining enforcement with education, more workers in this country can obtain stable and secure income and responsible businesses can succeed.

The FY 2018 Budget's proposed investments dedicate additional resources for compliance assistance to allow WHD to engage with industry leaders at the national, regional, and local level. In the past, relationships with industry leaders have resulted in meaningful partnerships and compliance assistance tools that have been well-received by the employer community, but WHD has not had the resources to expand on its efforts to make compliance information more accessible and understandable to the employer community. WHD will use these funds to expand

## WAGE AND HOUR DIVISION

on existing successful compliance assistance efforts and allow WHD to reach a broader audience and increase compliance with the laws it enforces. Specific program changes include:

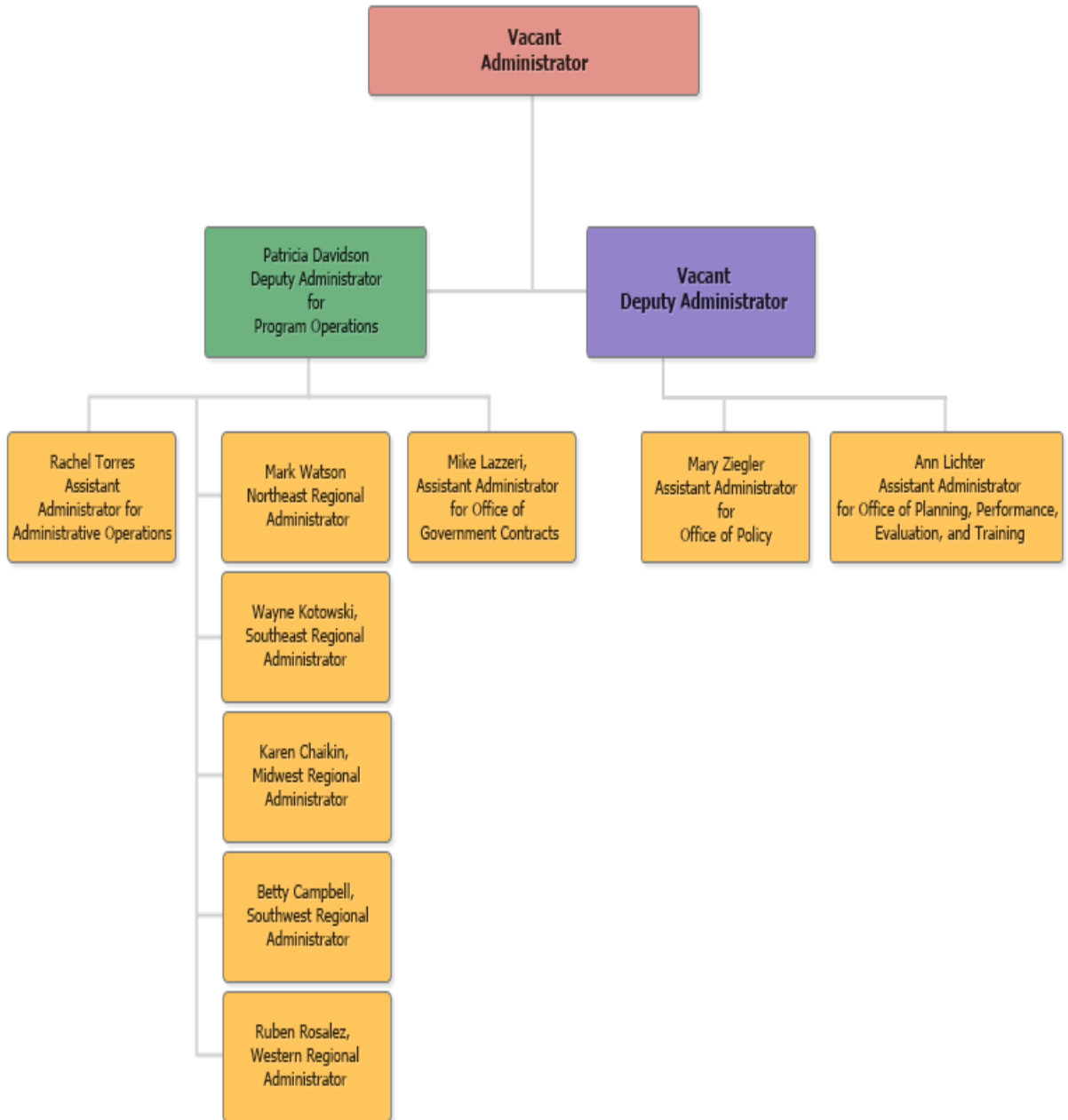
- An increase of \$3,000,000 and 15 FTE to position the agency with staff and resources to modernize its approach to delivering useful and effective compliance tools that support the employer community.
- A decrease of 26 FTE due to inflationary cost increases related to compensation, benefits, and rent equaling \$2,791,000 that will be absorbed by the agency.

These resources and investments are necessary for the development of accessible and understandable compliance assistance tools that help employers, particularly small and new businesses, understand how to comply with the law. WHD's requests are focused on increasing WHD's effectiveness at ensuring that employers have information and support that is tailored to their needs, while ensuring that workers are fully paid and receive protections in compliance with the law.

WHD is committed to maximizing its resources to achieve the greatest impact on compliance. The agency is using better strategies to plan where resources are best deployed, and to resolve cases in ways that reach a greater number of workers. WHD is focused on investigating employers with the most serious violations rather than burdening compliant employers with investigations that do not uncover compliance problems. By making it possible to reach employers who want to understand how to comply with the law, these resources will allow WHD to focus on where the need and the opportunity to affect compliance is the greatest.

The FY 2018 budget request supports WHD as a modern, evidence-based enforcement agency that addresses the needs of employers and workers of the 21<sup>st</sup> Century.

# WAGE AND HOUR DIVISION





## WAGE AND HOUR DIVISION

<b>BUDGET AUTHORITY BEFORE THE COMMITTEE</b>				
(Dollars in Thousands)				
	<b>FY 2016 Enacted</b>	<b>FY 2017 Full Year C.R.</b>	<b>FY 2018 Request</b>	<b>Diff. FY18 Request / FY17 Full Year C.R.</b>
<b>Activity Appropriation</b>	<b>227,500</b>	<b>227,068</b>	<b>230,068</b>	<b>3,000</b>
FTE	1,359	1,404	1,393	-11

NOTE: FY 2016 reflects actual FTE. Authorized FTE for FY 2016 was 1,376.

### **Introduction**

The labor standards' statutes that WHD administers and enforces provide basic protections for all workers in this country. Although they differ in scope, all of the statutes enforced by WHD are intended to protect and to promote the welfare of the nation's workforce. The Fair Labor Standards Act (FLSA) minimum wage provisions and the prevailing wage laws provide a floor for the payment of fair wages, while the FLSA overtime provisions are intended to broaden work opportunities and promote employment. The child labor provisions of the FLSA promote the safe employment of young workers, encourage their educational endeavors, and provide a path to future employment. The Migrant and Seasonal Agricultural Protection Act (MSPA) and the immigration programs establish working conditions intended both to protect the wages and the safety and health of vulnerable workers and to ensure the local labor force is not displaced by lower paid foreign or migrant labor. Congress enacted the Family and Medical Leave Act (FMLA) to help workers balance family and work responsibilities by providing job protection.

Wage and hour laws provide a basic level of economic security to the nation's workers and allow them to earn enough wages to purchase goods and services to support themselves and their families. The economic security of the nation's workforce also supports America's businesses and economy as a whole. To protect fair and vigorous competition, WHD addresses compliance issues systemically and deters violations through compliance assistance to reach a broader audience. The combination of enforcement and compliance assistance increases compliance with the laws and makes workers who have experienced wage violations whole.

**FLSA:** WHD will conduct compliance assistance and enforcement efforts in industries where data and research indicate that the problems are greatest, where workers are least likely to exercise their rights, and where WHD can have an impact on compliance. To maximize the effectiveness of limited resources, WHD takes a multi-pronged approach to affect compliance: enforcement, including both complaint-based and agency-initiated investigations; outreach and education to employers and employees; and partnerships with other agencies, community organizations, business associations, and other stakeholders.

**Agriculture:** Domestic and temporary non-immigrant agricultural workers often endure low wages, unsafe housing and transportation, and harsh working conditions in violation of the law. WHD is developing new methods and tools to support data-driven decisions about resource allocation. WHD is committed to leveling the playing field within the industry to ensure that the

## WAGE AND HOUR DIVISION

worst violators are not gaining unfair and unwarranted advantages through their unlawful behavior. WHD is also committed to making its agriculture enforcement data, including data related to Farm Labor Contractors, more accessible and usable online so that employers, buyers, and stakeholders can more easily use it to ensure compliance within particular crops and supply chains.

**FMLA:** To promote work and family balance, WHD will continue its development of compliance assistance and enforcement strategies that are designed to have a broad impact on compliance.

**Section 14(c):** WHD is developing enforcement and outreach approaches in its Section 14(c) program, which provides protections for individuals with disabilities. Section 14(c) of the Fair Labor Standards Act provides that workers whose disabilities impair their earning or productive capacity for the work being performed may be employed at wage rates below the Federal minimum wage rate if the employer first obtains an authorizing certificate from the Secretary of Labor. The Department issues certificates authorizing employers to pay workers with disabilities these subminimum wages in accordance with the law. The Workforce Innovation and Opportunity Act (WIOA) increases individuals with disabilities' access to workforce services to prepare them for competitive integrated employment. WIOA limits the ability of employers to pay a subminimum wage to workers with disabilities. It also requires better employer engagement and promotes physical and programmatic accessibility to employment and training services for individuals with disabilities. Prior to the enactment of WIOA, WHD had begun to shift its approach to administration of the Section 14(c) program. WHD is aligning its regulatory, policy, certification, enforcement, and outreach efforts to improve program efficiency and effectiveness.

**Misclassification:** While the use of independent contractors is an acceptable and valuable business practice, in some circumstances, when an employer labels a worker as something other than an employee, it may be attempting to absolve itself of responsibility to pay workers according to the requirements of the law. Misclassified employees often are denied access to benefits and protections they are entitled to by law, such as the minimum wage, overtime compensation, family and medical leave, unemployment insurance, and safe workplaces. Employee misclassification generates substantial losses to the federal and state governments in the form of lower tax revenues, as well as to state unemployment insurance and workers' compensation funds. Employers who deliberately misclassify workers undercut law-abiding employers who are making contributions to these systems and paying their workers properly. WHD is committed to providing the Department's customers with clear and easy-to-access information on how to comply with federal employment laws and enforcing those laws when violations occur.

**Child Labor:** WHD enforces child labor provisions to ensure that children are protected from illegal employment in prohibited hazardous occupations, and that those who are eligible to work have safe and appropriate work experiences. The Department has a long history of examining child labor in every one of its investigations, including agriculture. WHD will continue to focus on child safety and evaluate options for policy improvements in this program area.

# WAGE AND HOUR DIVISION

## Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2013	\$215,184	1,420
2014	\$224,330	1,446
2015	\$227,500	1,332
2016	\$227,500	1,376
2017	\$0	0

NOTE: A full-year 2017 appropriation for this account was not enacted at the time the budget was prepared.

## FY 2018

At the FY 2018 Request Level, WHD requests \$230,068,000 and 1,393 FTE, which is \$3,000,000 above and 11 FTE below the FY 2017 Full Year annualized Continuing Resolution level. WHD's budget includes an increase of \$3,000,000 and 15 FTE for compliance assistance and a reduction of 26 FTE to account for pay built-ins and FY 2017 FTE rescissions that will be absorbed by the agency.

### *Compliance Assistance*

Compliance assistance to the employer community is a central component of WHD's efforts to meet its mission. Through direct engagement with industry leaders at a national, regional, and local level, WHD has developed productive relationships that have resulted in meaningful partnerships and compliance assistance tools that have been well received by the employer community. In the process, rather than relying on traditional text-heavy fact sheets and Power Point presentations, WHD has had early success transitioning into the use of modern compliance assistance methods and has used innovative ways to share information including visual design, infographics, videos, interactive web-based tools, and language that is tailored to the employer audience and accessible and usable in multiple contexts and formats. For example, by analyzing data on incoming compliance assistance questions and most frequently visited webpages, as well as through discussions with major industry associations, WHD recognized a need to develop more employer-friendly information regarding the FMLA. WHD collaborated with industry stakeholders to produce an easy-to-understand [FMLA Employer Guide](#)<sup>2</sup> that has been distributed widely through industry channels. While these efforts have received universal support from stakeholders, WHD has been unable to expand on these successful models due to resource limitations. Demand for accessible information about the laws WHD enforces remains high; in FY 2016 alone WHD's webpages were viewed more than 35 million times. Additional funds would be used to expand on these efforts to modernize compliance assistance information and allow WHD to reach and inform a broader audience, increasing compliance with the laws WHD enforces.

In 2010, WHD identified the need to supplement outreach efforts undertaken by local offices and created the Community Outreach and Resource Planning Specialists (CORPS) position, whose

---

<sup>2</sup> <https://www.dol.gov/whd/fmla/employerguide.htm>

## WAGE AND HOUR DIVISION

responsibility is, in large part, to engage with and educate the employer community. WHD has established collaborative partnerships with industry associations and employer groups who would like to educate their members on how to comply with the law. These groups are concerned about maintaining labor standards within their industry in order to attract a qualified workforce and ensure fair competition among businesses. The feedback from stakeholders to the CORPS has been overwhelmingly positive. As a result of the CORPS efforts, WHD has a ready pipeline of ideas from industry leaders at the national, regional, and local levels for compliance assistance needs. WHD would utilize the additional FTE to prioritize the deployment of CORPS across the country and improve compliance with the laws by expanding on this proven model.

In addition to the expansion of technology and deployment of the CORPS, WHD has efficiently utilized time and resources to deliver meaningful compliance assistance using a mix of in-person engagement and training and more modern digital tools. WHD personnel have collaborated with employer groups to create training that is tailored to the needs of a particular industry—for example, the construction industry in the Southwest region (Texas) or the agriculture sector in the Southeast (North Carolina, Kentucky, Florida)<sup>3</sup> and Western Regions (California). So far in FY 2017, WHD has reached over 10,000 growers in the tobacco industry through in-person trainings, but it has been unable to move forward with producing compliance videos or interactive digital tools that industry groups could further promote, reaching an even greater number of farmers and contractors across the country. Similarly, in the Southwest region, the CORPS organized a series of monthly employer forums to encourage employers to learn about relevant laws and the investigative process. These workshops were well-received and additional resources can expand these offerings. In addition, stakeholders have asked the agency to produce more web-based tools that leverage content and data and make compliance information more accessible, as well as short off-the-shelf video modules for employers to access and industry leaders to distribute through their channels. For example, WHD has produced [web-based calculators](#)<sup>4</sup> to support employers participating in the FLSA 14(c) subminimum wage program. These tools have been well-received but could be further modernized and represent a viable proof-of-concept for how WHD could partner with employer groups to produce tools that support employers—particularly small businesses—in their efforts to comply with the law while growing their business.

These efforts demonstrate how WHD has become more efficient in our outreach by making smart decisions about how to maximize resources, employing modern techniques from the private sector that allow for a customer-centric focus and iterative development of products through customer engagement. For example, WHD is currently partnering with a major national franchisor in a new effort to produce video modules and web-based learning tools covering key compliance topics in the restaurant industry. WHD has engaged directly with franchisees to gather their input, and will first produce prototypes for the franchise community to react to before final videos are produced and distributed through various networks. This new effort can be produced more quickly and then scaled to reach other employers and industries across the country with additional resources. The FTE and technology support will position the agency to

---

<sup>3</sup> For an example of compliance materials that were produced for the agriculture sector in the Southeast region as a result of WHD's collaboration with industry leaders, please see:

<https://www.dol.gov/whd/FLSAEmployeeCard/AgGuideEnglish.pdf>.

<sup>4</sup> <https://www.dol.gov/whd/sec14c/calculators/>

## **WAGE AND HOUR DIVISION**

modernize the approach to delivering useful and effective compliance tools that support the employer community.

### **FY 2017**

Figures shown for FY 2017 reflect the annualized Continuing Resolution level, as a full-year appropriation had not been enacted at the time the budget was produced. The Department will provide an Operating Plan after a full-year appropriations bill is enacted.

## WAGE AND HOUR DIVISION

<b>DETAILED WORKLOAD AND PERFORMANCE</b>					
		<b>FY 2016 Enacted</b>		<b>FY 2017 Full Year C.R.</b>	<b>FY 2018 Request</b>
		<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Target</b>
<b>Wage and Hour Division<sup>5</sup></b>					
WHD-CA-01	Number of Compliance Assistance Events	--	--	--	[base]
WHD-CA-02	Number of Compliance Assistance Hours	--	--	--	[base]
WHD-E-01	Number of compliance actions	30,500	28,589	30,500	29,500
WHD-E-02	Percent of agency-initiated investigations (excludes conciliations)	45%	46%	46%	46%
WHD-E-04	Percent of agency-initiated no violation cases	24%	19%	21%	21%
WHD-E-05	Percent of complaint no violation cases	21%	16%	21%	21%
WHD-PRIO-02	Percent of Agency-Initiated Investigations in Priority Industries	84%	84%	84%	84%
WHD-PRIO-03	Percent of complaint investigations in priority industries (excludes conciliations)	69%	68%	69%	69%
WHD-14C-01	Percent of Agency-Initiated No-Violation 14C Investigations	20%	17%	20%	20%

Legend: (r) Revised (e) Estimate (base) Baseline -- Not Applicable TBD - To Be Determined [p] - Projection

<sup>5</sup> WHD is replacing its FMLA measure to better align with its objectives in this area.

# WAGE AND HOUR DIVISION

## Workload and Performance Summary

WHD's priorities are supported by performance measures designed to monitor the progress in achieving compliance outcomes. WHD has used a balance of measures to evaluate whether the agency is effective, productive, and consistent in applying its strategies. WHD is developing next generation performance measures to drive continued growth and improvement. The current measures need to be augmented with measures that balance enforcement priorities and compliance assistance needs. The agency is also retiring measures that no longer drive agency behavior or are not linked to improved outcomes. Changes to measures and the addition of contextual measures will inform the agency's approach to target-setting, which also aims for an appropriate balance of quantity, quality, and effectiveness.

To reflect its commitment to compliance assistance, WHD will begin to track and report in FY 2018 on its number of compliance assistance events and hours spent in compliance assistance with the goal of increasing its impact through direct engagement with industry leaders and more modern compliance assistance methods. The agency will baseline these new measures in FY 2018. The compliance assistance FTE and technology innovation will employ modern techniques from the private sector that allow for a customer-centric focus and iterative development of products through customer engagement. WHD will also internally track how new compliance assistance tools are accessed and used, and leverage feedback to improve the development and distribution of compliance assistance products.

To drive emphasis on case quality and case outcomes, and to account for increased resources dedicated to compliance assistance, WHD will target a level of compliance actions that strikes a balance between productivity and quality. Because of overall FTE decreases and new resources dedicated to compliance assistance, WHD will lower its target of compliance actions to reflect these budget realities while still maintaining robust enforcement productivity. The FY 2018 target is significantly higher than what was achieved in FY 2016. WHD will maintain its percent of agency-initiated investigations to ensure that agency resources are dedicated to where data and evidence show investigations can have greater impact. As WHD continues to use better and more nuanced data and data analytics, WHD can further focus investigations on employers with severe and systemic violations.

By taking an evidence-based approach to planning, WHD has consistently prioritized compliance assistance and enforcement resources in areas where the agency is most likely to uncover violations. WHD uses a multi-pronged approach to compliance through investigations in high-violation industries, engagement and education of private and public stakeholders, and the use of communications tools and compliance assistance. This process, informed by data, research and evaluation, allows the agency to make the most of its limited resources.

## WAGE AND HOUR DIVISION

<b>BUDGET ACTIVITY BY OBJECT CLASS</b>					
(Dollars in Thousands)					
		<b>FY 2016 Enacted</b>	<b>FY 2017 Full Year C.R.</b>	<b>FY 2018 Request</b>	<b>Diff. FY18 Request / FY17 Full Year C.R.</b>
11.1	Full-time permanent	107,994	109,519	112,850	3,331
11.3	Other than full-time permanent	735	575	575	0
11.5	Other personnel compensation	1,507	1,881	1,738	-143
11.8	Special personal services payments	10	1	0	-1
11.9	<b>Total personnel compensation</b>	<b>110,246</b>	<b>111,976</b>	<b>115,163</b>	<b>3,187</b>
12.1	Civilian personnel benefits	37,647	39,174	38,370	-804
13.0	Benefits for former personnel	52	35	35	0
21.0	Travel and transportation of persons	5,607	2,632	2,590	-42
22.0	Transportation of things	2	9	9	0
23.1	Rental payments to GSA	13,433	13,825	14,127	302
23.2	Rental payments to others	13	13	18	5
23.3	Communications, utilities, and miscellaneous charges	3,817	3,459	3,780	321
24.0	Printing and reproduction	387	595	602	7
25.1	Advisory and assistance services	4,292	5,158	5,750	592
25.2	Other services from non-Federal sources	7,068	1,494	1,700	206
25.3	Other goods and services from Federal sources 1/	31,883	41,758	40,762	-996
25.4	Operation and maintenance of facilities	0	39	42	3
25.5	Research and development contracts	0	0	0	0
25.7	Operation and maintenance of equipment	10,951	4,395	4,395	0
26.0	Supplies and materials	1,037	556	600	44
31.0	Equipment	1,049	1,885	2,025	140
41.0	Grants, subsidies, and contributions	0	0	0	0
42.0	Insurance claims and indemnities	16	65	100	35
	<b>Total</b>	<b>227,500</b>	<b>227,068</b>	<b>230,068</b>	<b>3,000</b>
	1/Other goods and services from Federal sources				
	Working Capital Fund	26,438	39,493	39,493	0
	DHS Services	1,100	580	580	0
	Services by DOL Agencies	0	1,594	1,594	0
	GSA Services	200	83	83	0
	Services by Other Government Departments	4,145	0	1,000	1,000



# WAGE AND HOUR DIVISION

## CHANGES IN FY 2018

(Dollars in Thousands)

### Activity Changes

#### Built-In

To Provide For:

Costs of pay adjustments	\$2,105
Personnel benefits	0
Employee health benefits	714
Moving allowance	0
Two days less of Pay	0
Federal Employees' Compensation Act (FECA)	-28
Benefits for former personnel	0
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	0
Rental payments to others	0
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Advisory and assistance services	0
Other services from non-Federal sources	0
Working Capital Fund	0
Other Federal sources (DHS Charges)	0
Other goods and services from Federal sources	0
Research & Development Contracts	0
Operation and maintenance of facilities	0
Operation and maintenance of equipment	0
Supplies and materials	0
Equipment	0
Grants, subsidies, and contributions	0
Insurance claims and indemnities	0

**Built-Ins Subtotal** **\$2,791**

**Net Program** **\$209**

**Direct FTE** **-11**

	Estimate	FTE
<b>Base</b>	<b>\$229,859</b>	<b>1,404</b>
<b>Program Increase</b>	<b>\$3,000</b>	<b>15</b>
<b>Program Decrease</b>	<b>-\$2,791</b>	<b>-26</b>